

ORIGINAL

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

MICHAEL N. KAYE  
2201 S. Huron Pkwy. #3  
Ann Arbor, MI 48104  
Plaintiff,

Case: 2:08-cv-12570  
Judge: Edmunds, Nancy G  
MJ: Whalen, R. Steven  
Filed: 06-17-2008 At 12:49 PM  
CMP MICHAEL N KAYE V. AMCME INVESTM  
ENTS, INCORPORATED, ET AL (DSE)

vs.

*Jury demand requested*

ACME INVESTMENTS, INC.  
2701 Troy Center Drive, Suite 450  
Troy, MI 48084,

MICHAEL & LAURIE COURTNEY  
1533 Pine Valley Blvd. Apt 215  
Ann Arbor, MI 48104,  
Defendants.

1. The defendants rented an apartment at address 1533 Pine Valley Blvd, Apt 213, Ann Arbor, MI, to plaintiff, Michael N. Kaye and his wife, Irit Kaye without ever disclosing any information that the rental property may contain lead as required by the Residential Lead-Based Paint Hazard Reduction Act of 1992:42.
2. Three months into the tenancy, plaintiff's wife became pregnant and later gave birth to our son, Eliyahu Mordechai Kaye.
3. One month before the tenancy ended on August 5, 2007, plaintiff's wife again became pregnant. This baby, Yonaton Chananel Kaye, was born March 15, 2008.
4. The tenancy lasted nearly two years with one child having been conceived, brought to full term, and lived in the residence for one full year, while a second child was conceived. All the while, the children could have been exposed to lead.
5. Upon speaking with several long-time residents of the apartment building, the plaintiff was informed that they remember that the Environmental Protection Agency had come into their apartments and performed testing. One resident claimed that she still had a hole in the wall where the EPA had drilled to test.
6. In the last month of tenancy, the plaintiff asked resident manager Laurie Courtney for a copy of any lead disclosure information he may have signed and/or a copy of any reports from the EPA. Ms. Courtney informed the plaintiff that the EPA had been to the apartment years before but said everything was fine.

7. The plaintiff contacted Mr. David Lebenbom, partner in ACME INVESTMENTS, INC, by phone several times to obtain information about any lead-based testing. Mr. Lebenbom only kept repeating to the plaintiff that there is no lead in the building. He never confirmed nor denied any past testing of lead. Mr. Lebenbom also stated that he is not required to disclose any information about lead-based paint because that only applies to properties with a federal mortgage. This is patently false.

8. The plaintiff subsequently moved from the residence and filed a complaint with the Environmental Protection Agency against both the land lord and resident property managers for their non-compliance of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992:42.

9. The rental lease not only omits any reference to Section 1018 of this Federal law, but also omits language required by both the State of Michigan and the City of Ann Arbor.

10. It should be noted that ACME INVESTMENTS, INC is owned by partners of the law firm Lebenbom & Rothman, P.C. who are Administrative attorneys.

11. Attached is a copy of a letter I sent to Mr. Lebenbom stating my complaints with him.

12. As a result of the non-compliance of the defendants, the plaintiff incurred a very large moving expense as well as time lost from work, stress on his pregnant wife, possible exposure to lead by both a child and an unborn baby, and a violation of the plaintiff's right to know about such risks posed by their building while they themselves knew it.

*Michael Kye (pro se)*  
2201 S. Huron Hwy. #3  
Ann Arbor, MI 48104  
734-837-5408

1533 Pine Valley Blvd. Apt 213  
Ann Arbor, MI 48104

July 30, 2007

David Lebenbom  
801 West Big Beaver Road  
Suite 650  
Troy, MI 48064-4725

Dear David Lebenbom,

On Monday, July 2, 2007, an eviction notice was placed on the door of my residence. I immediately called you in your home to ask why I was being evicted, you told me that it is because I am a "trouble maker" and that I "want a new refrigerator". This apparently is stemming from an argument I had with your resident property managers the Friday before about replacing my defective refrigerator (which was promptly replaced). This is obviously a case of **retaliatory eviction**, for which you have the burden of proof that it is not. In our conversation, you also mentioned that I am running a business out of our residence. You did not elaborate on this when asked. I am not running a business nor have I ever run a business from my residence. Therefore, you obviously cannot produce any evidence to support your assertion.

That evening, I researched my rights as a tenant and came to discover that not only is the eviction illegal, but that your lease is in violation of city, state, and federal laws. Nowhere on the lease is the **Michigan Truth in Renting Act**. Or Ann Arbor city code requiring several notices to be printed on the lease such as, "*Upon the execution of this lease, a tenant is entitled to receive a copy of the booklet provided by the city clerk concerning the legal rights of tenants. By executing this lease, the tenant acknowledges receipt of such a booklet prior to execution of the lease.*" Or, "**NOTICE: YOU HAVE THE RIGHT TO PRIVACY IN YOUR RENTAL HOME. CITY LAW ESTABLISHES GUIDELINES THAT THE OWNER AND HER/HIS AGENTS MUST FOLLOW BEFORE ENTERING YOUR HOME. YOU MAY INITIATE ADDITIONAL ENTRY RESTRICTIONS BY GIVING WRITTEN NOTICE TO YOUR LANDLORD. COPIES OF THESE GUIDELINES (HOUSING CODE 8:529) ARE AVAILABLE AT THE BUILDING DEPARTMENT, CITY HALL, 100 N. FIFTH AVE.**" Or other notices regarding my rights not annotated in the lease.

However, the biggest violation I discovered that evening was about your non-compliance of a federal law Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992: 42 U.S.C 4852d. You were to disclose to me the possible presence of lead-based paint used in the building and give me an informational pamphlet regarding the risks of lead-based paint. This law was made to protect the health of pregnant women and children under the age of six. Three months after our tenancy began in Ivanhoe Apartments my wife, Irit, became pregnant and later gave birth to our son, Eliyahu Mordechai, who is now celebrating his first birthday, all of which happened during our tenancy.

When I called you two other times asking you about the presence of lead-based paint and demanding copies of any tests you may have performed on the building, you accused me of trying to get out of the eviction. You never answered my questions regarding any tests but told me that you are not required to comply with the federal law because it only applies to properties with a federal mortgage. Your statement is completely false regarding the law.

**I have been informed by several long-time residents here that about 10 years ago lead testing was done on the building.**

Mr. Lebenbom, I will obtain the results of those tests from the laboratory, inspector, or your office by subpoena, if necessary. You denied my wife and I informed consent about the risks your building posed to our child. We would **NEVER** have assumed occupancy in your building had we known.

As a result of this, I have contacted the Environmental Protection Agency and filed a formal complaint. I also plan on filing a federal lawsuit against ACME Investments, Inc. and your Agents, Michael and Laurie Courtney for non-compliance.

.....

*July 30, 2007*

*Page 2*

You need not take me to court for your illegal eviction as I am vacating the premises on July 31, 2007 and relocating to lead-free housing.

Sincerely,

Michael N. Kaye

(Rev. 12/07)

## CIVIL COVER SHEET

County in which action arose WASHTENAW

US 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by the local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

MICHAEL N. KAYE  
2201 S. Huron Pkwy. #3  
Ann Arbor, MI 48104

(b) County of Residence of First Listed Plaintiff WASHTENAW  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

MICHAEL N. KAYE  
2201 S. Huron Pkwy. #3  
Ann Arbor, MI 48104 734-837-5408

## DEFENDANTS

ACME INVESTMENTS, INC.  
2701 Troy Center Drive, Suite 450  
Troy, MI 48064

MICHAEL & LAURIE COURTNEY  
1533 Pine Valley Blvd. Apt 215  
Ann Arbor, MI 48104

County of Residence of First Listed Defendant OAKLAND  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

DAVID LEHNBOM  
801 W. BIG BEAVER ROAD, STE 650  
TROY, MI 48064-4725

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff)

(For Case: 2:08-cv-12570 DEF 3 4  
Judge: Edmunds, Nancy G  
MJ: Whalen, R. Steven  
Filed: 06-17-2008 At 12:49 PM 3 5  
CMP MICHAEL N KAYE V. AMCME INVESTM  
ENTS, INCORPORATED, ET AL (DSE) 3 6  
Citizen c  
Citizen c  
Citizen c  
Foreign:

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input checked="" type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input checked="" type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 800 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609				

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Residential Lead-Based Paint Hazard Reduction Act of 1992:42 U.S.C 4852d

Brief description of cause:

I am suing the landlord and resident property managers for not informing me of the risks their apartment posed to my family.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 100,000 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

June 17, 2008

Michael Kaye (pro se)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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